

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6267

BILL NUMBER: HB 1071

NOTE PREPARED: Nov 28, 2011

BILL AMENDED:

SUBJECT: Local Ordinances Concerning Ephedrine Sales.

FIRST AUTHOR: Rep. Bacon

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: This bill permits a unit to adopt an ordinance regulating the sale of ephedrine or pseudoephedrine that is more stringent than state law.

Effective Date: July 1, 2012.

Explanation of State Expenditures:

Explanation of State Revenues: Currently, violating this section of ephedrine sales is a Class C misdemeanor for a first-time offense and a Class A misdemeanor if the person has a prior, unrelated conviction. If these cases are prosecuted as ordinance violations, any fines would be kept at the local level instead of being deposited into the Common School Fund. Although a revenue loss to the Common School Fund could occur if a local unit (county, municipality, or township) adopts more stringent regulations than current state law, the loss is likely to be minimal.

Under current law, only ordinances passed prior to February 1, 2005, can be more stringent than the limitations in this section of state law. Vigo County has had an ordinance since December 21, 2004, that regulates the sale of ephedrine and pseudoephedrine in the county. The limitations include a minimum age for purchasers (18); quantity at a single purchase (2 packages including any bottle, blister pack, or other container in which products containing ephedrine are sold); and frequency of purchases (2 packages of products containing ephedrine within a 7-day period). Persons found guilty of violating this ordinance may be liable for a fine of not more than \$2,500. An attorney representing Vigo County indicated that the number of cases filed for violating this ordinance declined significantly since current law was established by SEA 444 in 2005.

The maximum fine for a Class C misdemeanor is \$500 and \$5,000 for a Class A misdemeanor.

Explanation of Local Expenditures: If the case is prosecuted as an ordinance violation instead of as a misdemeanor, and a guilty decision is returned, fewer persons could be sentenced either to jail or to probation.

A Class C misdemeanor is punishable by up to 60 days in jail, and a Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44. There is no period of incarceration for violating a local ordinance.

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected: Trial and municipal courts, local law enforcement agencies.

Information Sources: Michael J. Wright, Wright, Shagley, and Lowery, Terre Haute, IN

Fiscal Analyst: Mark Goodpaster, 317-232-9852.